

## **Assembly Bill No. 1705**

### **CHAPTER 420**

An act to amend Section 12022.6 of the Penal Code, relating to sentencing.

[Approved by Governor October 10, 2007. Filed with  
Secretary of State October 10, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1705, Niello. Sentencing: enhancement.

Existing law provides for an additional term of imprisonment, as specified, when any person takes, damages, or destroys any property in the commission or attempted commission of a felony and is repealed as of January 1, 2008.

This bill would raise the monetary thresholds for these enhancements and extend the repeal date to January 1, 2018.

This bill would state the Legislature's intent that the provisions of this bill be reviewed within 10 years to consider the effects of inflation on its provisions and that it be applied prospectively only.

Because this bill would extend the repeal date of sentencing enhancements, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

**SECTION 1.** Section 12022.6 of the Penal Code is amended to read:

12022.6. (a) When any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows:

(1) If the loss exceeds sixty-five thousand dollars (\$65,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of one year.

(2) If the loss exceeds two hundred thousand dollars (\$200,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of two years.

(3) If the loss exceeds one million three hundred thousand dollars (\$1,300,000), the court, in addition and consecutive to the punishment

prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of three years.

(4) If the loss exceeds three million two hundred thousand dollars (\$3,200,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of four years.

(b) In any accusatory pleading involving multiple charges of taking, damage, or destruction, the additional terms provided in this section may be imposed if the aggregate losses to the victims from all felonies exceed the amounts specified in this section and arise from a common scheme or plan. All pleadings under this section shall remain subject to the rules of joinder and severance stated in Section 954.

(c) The additional terms provided in this section shall not be imposed unless the facts of the taking, damage, or destruction in excess of the amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(d) This section applies to, but is not limited to, property taken, damaged, or destroyed in violation of Section 502 or subdivision (b) of Section 502.7. This section shall also apply to applicable prosecutions for a violation of Section 350, 653h, 653s, or 653w.

(e) For the purposes of this section, the term “loss” has the following meanings:

(1) When counterfeit items of computer software are manufactured or possessed for sale, the “loss” from the counterfeiting of those items shall be equivalent to the retail price or fair market value of the true items that are counterfeited.

(2) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the “loss” from the counterfeiting of those components of computer software packages shall be equivalent to the retail price or fair market value of the number of completed computer software packages that could have been made from those components.

(f) It is the intent of the Legislature that the provisions of this section be reviewed within 10 years to consider the effects of inflation on the additional terms imposed. For that reason this section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. It is the intent of the Legislature that the amendments to Section 12022.6 of the Penal Code by this act apply prospectively only and shall not be interpreted to benefit any defendant who committed any crime or received any sentence before the effective date of this act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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